

G. R. S. 58]

Previous references.

Ch 23-10 851-40

Ch 251-11. 1-5 B

1913.

(Courts)

File No. 23-13.

Serial Nos. 1-3

Later references.

Ch 24-14 (1-2) B.

Ch 24-14

Ch 24-20 (1-2)

Ch. 198-20 (notes)

Ch 31-20 8 4-12, 16 & 17

Ch 99-22 (1-4)

GENERAL AND REVENUE SECRETARIAT.

Ch Dep. 7/38-29

Ch 116-40 (57-26)

Ch 57-41 (1)

Ch Dep. 47/42

Ch 438/45-46.

Serial Nos. 1-3.

Part B for April 1914

SUBJECT.

Revival of the system of taking the depositions of Witnesses in English and Kannada in Civil Courts

- 1) To the Registrar Chief Court No 236 of 25 July, 1913
Invites the opinion of the Chief Court on the above subject.
- 2) From the same office No 720/47 of 11th August 1913
Furnishes the opinion called for.
- 3) To the Registrar Chief Court, D.C. of Bangalore
Hassan, Mysore and Shimoga
Directs the taking down of depositions in
English & Kannada.

(Radawan)
31/7/14

GENERAL AND REVENUE SECRETARIAT.

(*encls*

NOTES.

File No. 23

FILE HEADING.

Depositions of witnesses in civil courts

From

No.

Dated

Received

Diary No.

Enclos.

Spare Copies.

Serial No.

BRIEF ABSTRACT OF LETTER.

NOTES AND ORDERS.

P.T.O.

NOTES—First Sheet.

SUBJECT No. 40.

Depositions of witnesses in civil courts.

Messrs. Veene Rangaswami Iyengar, Krishna Setti and W. Subbaraya Moodr., Seringapatam taluk, K. Ramanna, Hole-Narsipur taluk, and H. Krishnappa, Law Association, Bangalore, and C. Subba Rao, Shimoga District Board.

Summary of discussion.—In civil courts depositions of witnesses were being taken down in Kannada by the court clerks, the Judge taking down in English only notes of important facts.

The practice of taking down depositions in Kannada has been done away with and the present system of the Judge himself taking down the whole of the deposition in English works as a hardship in many ways. Pray that the old system may be revived.

Many members spoke in favour of the representation and said that there was no advantage in the new system which leads to delay as the evidence has to be interpreted and read out to the witnesses, as also several pleaders did not know English.

Reply of Government.—The old practice will be restored.

Before Sep^r 1910, depositions of witnesses in all civil courts were being taken down in Kannada but on a representation from the Chief Court got were pleased to empower all District ^{Judges} & Sub Judges to take down the evidence in English in cases in which an appeal is allowed.

2 Draft inquiring the opinion of the Chief Court on the present representation is sub^d for orders.

KG.-129

21/7/13.

SW

3 Dr. Setti

1st Councilor

1/10/13
21/7

Dr. G. S. Rao
27/7/13

Draft appd. by St. Councilor
22.7.13.

25/7

Issue 1/10/13
23/7

Serial
No.

To the Registrar, Chief Court.

No 236 of 25.7.13

Invite attention to the subject and call
for the opinion of the Chief Court.

From the same office

No $\frac{720}{47}$ of $\frac{11}{12}$. 8.1913State for reasons mentioned that the judges
very strongly deprecate a reversion to the system
of taking down evidence in Kannada

1) On ^a representation from the Chief
Court, that the double record system was dis-
-advantageous to work with, Govt were pleased to
empower the session of the Munsiff to take
down evidence in English in cases in which
an appeal is allowed. The Chief Court
adhere to their former opinion and deprecate
strongly a reversion to the old system. But the
reply given in the Assembly was that the
old practice would be restored.

2) Subd for orders.

K.S.-129

16.8.13

18

D. S. (7)

S.M. 18/8

3) The reply of Govt is definite

4) Judges must have Court clerks. But under the
single record system in vogue, a Court clerk can afford

NOTE—Contn. sheet.

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No.

to find little or no employment while the judge is recording the evidence in English.

5) Pleaders knowing only Kanarese may not be "of any appreciable assistance to the Court" as observed by the Chief Ct; but this is not correct as an absolute proposition. There are many such pleaders who are as efficient as not a few English Kanarese vakils. At any rate, they are in demand so far as litigants are concerned.

6) It is for people that Courts exist and it is expedient to adopt a system which inspires their confidence as the double system of record certainly does, provided there is no serious objection to be urged against it. Applying this test, the reply of Govt seems to be perfectly sound.

7) The convenience of the Appellate Court is not the deciding factor in a case of this kind.

1st Comm. (11)

D. S. S. S. S.
19/8/12

The recording in Kanada was obligatory under the former law. Government has now power to direct the dispensing with this record (Sec 138 of the Civil Procedure Code) and this power has been exercised with reference to almost all the civil courts.

Serial
No.

I cannot agree with the ~~extra~~ estimate of the value of this record given by the Chief Court. The Kanada depositions are much more accurate as a rule than they seem to think. The old system gave two independent records of evidence of which one often served to correct the deficiencies of the other. I have known instances in which the Munshi's record was ~~certainly~~ more correct than that of the judge and it is certainly easier to write down the words of the witness in his own language and the depositions used to be read over as they had been taken and attested by the deponents.

There is really some excuse for writing judgment in English but it would strike most people as an anomaly that evidence which is given in Kanada

Serial
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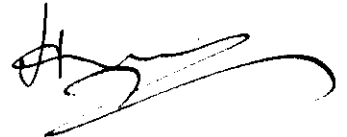
should be translated into English for being written down and retranslated into Kanada for being attested by the witness.

or two 11 I cannot attach much Value to the alleged difficulty of the appellate Courts. All our judges both in original and appellate Courts with one exception are fully conversant with the Kanada language. Perhaps they may find it difficult to write and read fluently but that difficulty ~~can be easily~~ is not of much consequence.

12 So far as civil cases are concerned, if the old system is followed, it is not necessary to make translations; for in most cases, the memorandum of the evidence taken down by the judge in English is quite ample for appellate Courts. I therefore think that it would not be an undesirable

Serial
No.

thing to revert to the old system, at any rate in the Munsiff's Courts. In fact I was somewhat reluctant to issue orders under Sec 138 in respect of these Courts but gave in out of deference to the views of the Chief Court. If the Dewan and the second Councillor agree, I am prepared to reverse what we have done. The file may be circulated and the subject considered at a meeting in Council with the Dewan's permission
26/8/13.




Dewan)

Dewan agreed
28/8/13

13

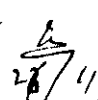
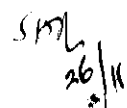
Please put up a draft order ~~for~~ ^{for} consideration at a meeting of Council. I am inclined to agree with the 1st Councillor

25.11.13.

LB

Secretary)

B in

NOTE—Contn. sheet.

C5 File No. 23 of 1913-14

Serial
No.

14 Draft order in accordance with the view of
the Joint Comptroller is subd.

K.G.-116

4.12.13

M.L.

Dr. L. S. (1)

A tidy draft as revised, maybe put up.

S. M. L.
6/12Dues
8/12 S.P.V.

Tidy draft subd.

K.G.-116

8/12/13

M.L.

Dr. L. S. (1)

Please see the draft. verify that up a tidy draft as revised

S. M. L. 18/12

Dues
27/12

Tidy draft is subd.

K.G.-116

29/12/13

C.D.

Circulate note for meeting

Dues
28/12

16 I agree too.

3/1/14

M.L.

Section.

Note for meeting

L.
S.P.V.

Extract from the Proceedings of the.....312th.....Meeting
of the Council of His Highness the Maharaja,
held at.....B...a...n...g...a...l...o...r...e...on the.....4th...February.....1914 .

13. Subject.-(Clause of the Schedule).

Question of reviving the old system of recording depositions both in Kannada and English in the Civil Courts.

Opinion of the Council.

The old system of taking depositions both in Kannada and English may be revived.

"E x t r a c t "

Sd/- M. Visvesvaraya.
Dewan of Mysore.


~~Secretary~~ Secretary to Government.

General and Revenue
Secretariat.

55 File No. 23

of 1913-14

Serial
No.

Enhanced Annual Proceedings are
attached.

19 Draft of final note may
be put up & submitted to 2nd
member of Council

Dep't Secy

23
13/2

20 Draft final subd.

KG. - 116

18/2/14

Dr Secy)

SPR 18/2

A tidy draft as revised may be put up very early

Today draft subd.

KG - 116

19/2/14

Dr Secy)

SPR 19/2

First member)

Drafting Secy 19/2

Final note approved by the
First member of Council is
herewith put up and submitted
M.S.

Deewan

23
24/2

11

Submitted to His Highness.

8

22 I submit herewith a Final Note by the First Member of Council regarding the revival of the system of recording depositions of witnesses in Civil Courts both in Kannada and English.

Page 4 of the
notes.

23 2. The recommendation of the Council to revive the old practice may kindly be approved.

M. Rimmanna -

12th Mar. 1914 -

Final Note by the First Member of Council.

Subject:- Question of reviving the old system of recording depositions both in Kannada and English in the Civil Courts.

Under Section 138 of the Code of Civil Procedure, 1911, Government have the power to direct that the recording of evidence in Kannada in Civil ^{Cases} Courts be dispensed with. Accordingly, on a representation made by the Chief Court in ^{March} November 1912 that the exercise of this power would lead to more expeditious work, the double record system was dispensed with in certain cases by empowering some of the Munsiffs to take down evidence in English.

In the Representative Assembly of 1912, it was represented that there was no advantage in the single record system as, so far from saving time, it really entailed more work and ^{lay} delay, and prayed that the old system might be restored. The Chief Court, who were consulted on the representation, consider that the single record system has been working well and strongly deprecate a reversion to the old system.

I cannot agree with the Chief Court's estimate of the value of the Kannada record. Depositions taken down in Kannada are as a rule, much more accurate than the Chief Court seem to think. The old system gave two independent records of evidence of which one often served to supply the deficiencies of the other. There is some reason for judgments being written in English; but it seems anomalous that evidence given in Kannada should be translated into English for being written down and again translated into Kannada for the information of the parties and witnesses.

I cannot attach much value to the alleged difficulty

of the Appellate Courts. Almost all the Judges in Mysore are fully conversant with the Kannada language. Besides, in Civil Cases the memorandum of evidence taken down by the Judge in English is quite ample for Appellate Courts in the generality of cases.

28 For the foregoing reasons, I consider it desirable to revert to the original system of double record for the revival of which many of the Representative Assembly Members pressed during the last year's sittings as well. This will be done by withdrawing the notifications issued under Section 138 of the Code of Civil Procedure in the case of Munsiffs either all at once or beginning with the lighter courts, in consultation with the Chief Court.

21.2.1914

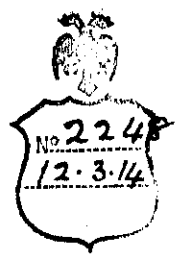
H. Manjundaya

(5)

Record of Cases submitted for the Orders
of His Highness the Maharaja

Subject.

Question of reviving the old system
of recording depositions in Civil Courts
both in Kannada and English.



7/16

Order.

Approved

KRW

14/3/14

Secretary

15.3.14

20

B III 2.3.16/2

Just please
draft an order
in suitable terms.

17/3/14
18/3/14

1-2

Serial
No.

31 draft order put up as directed in para 13 is revised in the light of the last sentence in the final note and subd.

32 conformably to the opinion of the 1st C. expressed in para 12, agreed to by the Secy, the revision to the double receipt system is restricted to the courts & Munsiffs (vide addition to para 4).

K.G. - 116

18/3/1914 M.

g

33 A revised draft as directed by the Asst Secy in person is subd.

K.G. - 116

23.3.14 M.

Dr Secy)

Spn
24/3

Dy Secy

25/3 1914
3. 4. 14

First Member)

34 Draft appd. by First member
on 11/3

24/4 1914

35 Issue

12/6/14

3

To The Registrar, Chief Court
The Dy Secys of Bangalore, Hassan
Mysore & Shimoga Dist.
No 22986-90 dated 17.4.14
State that Govt consider it desirable

General and Revenue
Secretariat.

C5

File No. 23

of 1913-14

Serial
No.

to revert to the original system of double
 record in the courts of Munsifs and request
 the Chief Court to report if the power already
 conferred may be withdrawn in the cases
 where civil cases at once are beginning
 made with the higher courts.

NOTE—Contn. sheet.

47
65 File No. 23 of 1913-14
Serial No. 1

Diary No. of letter replied to _____

General and Revenue Secretariat

Date of issue 25.7.13

Signed by Mr. S. P. Rajappala
Cham

List of enclosures _____

Drafted by K.G. - 129
21/7/13

Copied by _____

Examined by SN

22/7/13

To

✓ No. 9236
The Registrar
Chief Court

Sir,

I am directed to invite your attention
to subject No. 40 of the
Proceedings of the Representative
Assembly of 19.12.....and the reply of
Government thereto in the matter of
the deposition of witnesses
being taken down in
Kannada in all civil courts
and to request you to be so good as to favour
Govt. with the opinion of the Chief Court
~~your opinion~~
in the matter at an early date.

I have, etc.,

SPN
For Secretary to Govt.

No. 720
47

Bangalore.

11th August 1913.

72^a

8559

From

The Registrar of the
Chief Court of Mysore

DIARY NO.

To

The Secretary to Government,
General and Revenue Departments.

10B-1014
SECTION 15
23/8/13-14
2

Sir,

With reference to your letter No. J.236-Cts.23-13-1 dated 25th July 1913 asking for the opinion of the Chief Court on subject No.40 of the Proceedings of the Representative Assembly of 1912 in the matter of ^{the} depositions of witnesses being taken down in Kannada in all Civil Courts, I am directed to invite your attention to the opinion of the Chief Court emphatically expressed in this Office letter No.3665/27 dated 28th March 1912, and to add that the Judges continue to be of the same opinion.

The Single record system, which is being adopted in the case of specially selected Munsiffs since March 1912 has been working ~~very~~ very well, and so far as the accuracy and ~~the~~ fulness of the record is concerned, there has been absolutely no valid ground for complaint.

The remarks of the Judges on the subject of the recording in vernacular of the depositions of witnesses in Criminal cases, contained in my letter No. ⁷¹⁹/₄₆ of this date apply with equal force to the recording in vernacular of depositions in Civil cases. When it is important that the exact words of a witness should be recorded, Judges may be trusted to record them in the vernacular. The practice of recording evidence in English may mean a little more time occupied in the trial of the case, but in the case of Judges familiar with English and vernacular the extra time occupied is not much, while undoubtedly much time will be saved in appellate courts. Any ~~argument~~

argument.

argument in favour of record in vernacular from the fact that several pleaders do not know English rests on a very infirm ground. A pleader who does not know English and is incapable of reading a law report or a commentary or even an Act itself in its original drafted form can hardly be of any appreciable assistance to the court.

For these reasons the Judges very strongly deprecate a reversion to the system of taking down evidence in Kanarese either as the only record of ^{the} evidence or along with the ~~the~~ taking down of notes in English.

I have the honor to be,

Sir,

Your most obedient servant,



Registrar.

A.V.

187

Directly that depositions in the Court of Mysore shall
hereafter be taken down in Kannada as before. (4)

G.R.S. 28]

6/4 59

7 Copies

File No. 23 of 1913
Serial No. 3

Diary No. of letter replied to

Printed

GENERAL AND REVENUE
SECRETARIAT.

()

Page 1 to 10 note

Included as annexure 1 to this
the order 19

Please type in full the

many of discussion and the
Date of issue 17-6-13
by G. G. H. H. H.

Signed by Mr. P. Rajagopalachari

Under

Official.

Proceedings of the Government of His Highness
the Maharaja of Mysore.

READ—

the proceedings of

Subject no 40 of the Representative

Assembly of 1912

2. Correspondence ending with

letter no. $\frac{720}{47}$, of the 11th Aug 1913, from

the Registrar, Chief Court, stating that

~~ORDER THEREON.~~ No.

for the reasons set forth therein the
Judges do not advise a reversion to the
system of taking down evidence in
Kannada either as the only record of
the evidence or in addition to the
taking down of notes in English by

P.T. over.

SUBJECT.

the presiding Judge.

Order thereon - no. J 7986-90, et 93-13.

14/14

Under Secⁿ 138 of the Code of Civil Procedure - 1911 - Courts have the power to direct that the recording of evidence in Kamada in civil cases be dispensed with and this power has lately been exercised in favour of a large majority of the Courts.

2. In the Representative Assembly of 1912, it was represented that there was no advantage in the single record system as, far from saving time, it really entailed more work and delay and ~~proved~~ that the old system might be restored. The Chief Court, who were consulted on this representation, consider that the single record system has been working well ~~and~~ ^{and that} ~~strongly recommend~~ a reversion to the old system is inexpedient.

The question has received the careful consideration of Govt. They observe that

3. Under the old system

G.R.S. 27]

GENERAL AND REVENUE
SECRETARIAT.

(Continuation sheet draft form.)

...independent record of evidence
were available for comparison with
each other, affording an ~~un~~assured
assurance of absence of errors
from the recorded depositions of
witnesses. It is further much easier
to take down the words of the
witness in his own language, the
presiding Judge merely making
a memorandum of such evidence
in English, than to translate first
of all the whole evidence for pur-
pose of the English record and there-
after to retranslate this record
into Kannada for the information
of the witness concerned. As a rule,
depositions recorded in Kannada
have been found to be fairly ac-
curate and instances are not
wanting in which such record
has helped to correct the English
record taken down by the Judge.

iii dealing with evidence records
in Kannada, Govt think that
it cannot be considerable

to regard the ^{attitude} difficulty of the appellate court,
4. Almost all the Judges in
Mysore are conversant with

the Kannada language, ~~and the~~
~~difficulties of the Appellate Courts~~
~~caused by the complexity of the~~
~~verbal and the other aspects,~~
~~because it is not always necessary~~
~~in civil cases to have the entire~~
~~Kannada depositions translated~~
~~into English in the Appellate proceedings~~
and
as the memorandum of evi-
dence taken down, ^{in English} by the pre-
siding judge of the lower court
will be found ^{sufficient} ~~quite ample~~ in
the generality of cases for purposes
of the Appellate Courts.

5. For the foregoing reasons,
I do not consider it desirable to revert
to the original system of double
recording in the Courts of Munsiffs.

6. The Chief Court is requested
to report if the power conferred under
Secⁿ 138 of the Code of Civil Procedure
maybe withdrawn in the case of all
^{civil courts}
the ~~Munsiffs~~ at once on beginning
made with the courts having

G.R.S. 27]

GENERAL AND REVENUE
SECRETARIAT.

(Continuation sheet draft form.)

lighter work.

~~Ad~~

~~Due~~

~~is for Secy to Govt~~

To The Registrar, Chief Const,

The Dy Commr of Bangalore

Mysore, Hassan & Shimoga ss for

communication to the R.A. members

concerned

May this be printed?

copy to the Dy Commr

kg. - 116

23.3.14

~~Hu~~
3/4/14

14/14

*Proceedings of the Government of His Highness the Maharaja of Mysore,
Judicial and Legislative (Courts), dated 17th April 1914.*

READ—

Subject No. 40 of the proceedings of the Representative Assembly of 1912.

Summary of discussion.—In civil courts depositions of witnesses were being taken down in Kannada by the court clerks, the judge taking down in English only notes of important facts.

The practice of taking down depositions in Kannada has been done away and the present system of the judge himself taking down the whole of the deposition in English works as a hardship in many ways. Pray that the old system may be revived.

Many members spoke in favour of the representation and said that there was no advantage in the new system which leads to delay as the evidence has to be interpreted and read out to the witnesses, as also several pleaders did not know English.

Reply of Government.—The old practice will be restored.

2. Correspondence ending with letter No. 720-47, dated the 11th August 1913, from the Registrar, Chief Court, stating that for the reasons set forth therein the Judges do not advise a reversion to the system of taking down evidence in Kannada either as the only record of the evidence or in addition to the taking down of notes in English by the presiding Judges.

No. J. 2986-90—Cts. 23-13-3, DATED BANGALORE, 17TH APRIL 1914.

ORDER THEREON.—Under Section 138 of the Code of Civil Procedure, 1911, Government have the power to direct that the recording of evidence in Kannada in civil cases be dispensed with and this power has latterly been exercised in favour of a large majority of the courts.

2. In the Representative Assembly of 1912 it was represented that there was no advantage in the single record system as, far from saving time, it really entailed more work and delay and that the old system might be restored. The Chief Court, who were consulted on this representation, consider that the single record system has been working well and that a reversion to the old system is inexpedient.

3. The question has received the careful consideration of Government. They observe that under the old system two independent records of evidence were available for comparison with each other, affording an increased assurance of absence of errors from the recorded depositions of witnesses. It is further much easier to take down the words of the witness in his own language, the presiding Judge merely making a memorandum of such evidence in English, than to translate first of all the whole evidence for purposes of the English record and thereafter to retranslate this record into Kannada for the information of the witness concerned. As a rule, depositions recorded in Kannada have been found to be fairly accurate and instances are not wanting in which such record has helped to correct the English record taken down by the Judge.

4. As regards the alleged difficulty of the appellate courts in dealing with evidence recorded in Kannada, Government think that it cannot be considerable as almost all the Judges in Mysore are fully conversant with the Kannada language and as the memoranda of evidence taken down in English by the presiding Judge of the lower court will be found sufficient in the generality of cases for purposes of the appellate courts.

5. For the foregoing reasons, Government consider it desirable to revert to the original system of double record in the courts of Munsiffs.

6. The Chief Court is requested to report if the power conferred under Section 138 of the Code of Civil Procedure may be withdrawn in the case of all the civil courts at once or a beginning made with the courts having lighter work.

K. R. SRINIVASIENGAR,
Secy. to Govt., Gen. & Rev. Depts.

To—The Registrar, Chief Court of Mysore.

The Deputy Commissioners of Bangalore, Mysore, Hassan and Shimoga Districts for communication to the R. A. Members concerned.

Exd.—C. R.

1913-14

GOVERNMENT OF HIS HIGHNESS
THE MAHARAJA OF MYSORE

JUDICIAL AND LEGISLATIVE
(COURTS)

PROCEEDINGS

Dated 17th April 1914

No. J. 2986-90
Cts. 23-13-3

Directing that the depositions of
witnesses in Civil Courts be taken down
in Kannada.